

SOUTH HOLLAND DISTRICT COUNCIL

Report of: Development Manager

To: Planning Committee - 08 March 2023

(Author: Catherine Sutton - Planning Officer)

Purpose: To consider Planning Application H05-1085-22

Application Number: H05-1085-22

Date Received: 08 November 2022

Application Type: FULL

Description: Erection of a wind fence to produce renewable energy to support the holiday lodges on the site adjacent

Location: Land at Lowgate Fleet Spalding

Applicant: Larkfleet Group

Agent: Planning Potential Ltd

Ward: Fleet

Ward Councillors: Cllr P E Coupland

You can view this application on the Council's web site at

<http://planning.sholland.gov.uk/OcellaWeb/planningDetails?reference=H05-1085-22>

1.0 REASON FOR COMMITTEE CONSIDERATION

1.1 Policy issues that merit Committee consideration.

2.0 PROPOSAL

2.1 This is a full planning application for the erection of a wind fence to produce renewable energy to support the holiday lodges on the site adjacent, on land at Lowgate, Fleet.

2.2 The proposed wind fence would measure 53m in total length, with a maximum height of 6.5m. The panels that make up the fence are constructed of a lightweight aluminium frame and are approximately 2m in height, each containing 6 x blades that are turned by the wind.

2.3 The applicant has advised that they are in principle content for the wind fence proposal to be linked to the delivery of the holiday lodges that are subject of extant planning permission H05-0565-22: Erection of 38 cabins for holiday / leisure use together with landscaping and all associated works (uplift of 14 no. units compared to the existing consent).

2.4 The area of land designated for the wind fence is to the south-west of the holiday lodges site, and will be connected through a 110m connection cable. The energy harvested by the wind fence will be stored in a storage battery on the adjacent site. The battery storage will reduce reliance on the national grid, and will combine with the solar energy being harvested on the adjacent site, to promote a more sustainable form of development.

3.0 SITE DESCRIPTION

3.1 The application site is part of a large agricultural field, connecting at one end to Winslow Gate

and the other end the south-western corner of the adjacent holiday lodge site. There is further agricultural land to the north and west. To the south is partly agricultural land and partly paddock. There are a small number of trees along the southern boundary, which is otherwise largely open save for post and rail fence demarcating the neighbouring paddock.

4.0 RELEVANT PLANNING POLICIES

4.1 The Development Plan

South East Lincolnshire Local Plan, March 2019

If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, Section 38 (6) to the Town and Country Planning Act as amended by the 2004 Act states that the determination must be made in accordance with the plan unless material considerations indicate otherwise.

Policy 1 - Spatial Strategy
Policy 2 - Development Management
Policy 3 - Design of New Development
Policy 4 - Approach to Flood Risk
Policy 28 - The Natural Environment
Policy 29 - The Historic Environment
Policy 30 - Pollution
Policy 31 - Climate Change and Renewable and Low Carbon Energy

National Guidance

National Planning Policy Framework (NPPF), 2021

Section 12 - Achieving well-designed places
Section 14 - Meeting the challenge of climate change, flooding and coastal change
Section 15 - Conserving and enhancing the natural environment
Section 16 - Conserving and enhancing the historic environment

Planning Practice Guidance (PPG)

5.0 RELEVANT PLANNING HISTORY

- 5.1 H05-0565-22 - Full - Erection of 38 cabins for holiday / leisure use together with landscaping and all associated works (uplift of 14 no. units compared to the existing consent). Approved November 2022.
- 5.2 H05-0709-21 - Application for a Non-Material Amendment to planning permission H05-0773-17 to amend the description of development to 'Erection of 24 (in total) cabins for holiday/leisure use including 6 No. additional cabins, 6 No. cabins granted under H05-0699-16 and 12 No. cabins granted permission under H05-0144-15'. Approved July 2022.
- 5.3 H05-0555-22 - Details of external materials (Condition 9 of H05-0773-17). Approved June 2022.
- 5.4 H05-0507-22 - Non-Material Amendment (NMA) application to amend the location of the already approved cabins in the first phase and update Condition 2 (approved plans) of planning permission H05-0773-17. Approved May 2022.
- 5.5 H05-0379-22 - Non-Material Amendment (NMA) application to add a phasing condition and update Condition 2 (approved plans) of planning permission H05-0773-17. Approved May 2022.
- 5.6 H05-0404-21 - Details of external materials (Condition 9 of H05-0773-17). Approved May 2021.
- 5.7 H05-1033-19 - Details of surface and foul water, proposed levels, external materials and storage and disposal of refuse (Conditions 4, 6, 9 and 10 of H05-0773-17). Approved December 2019.

- 5.8 H05-0773-17 - Erection of 24 (in total) log cabins for holiday/leisure use including 6 No. additional log cabins; 6 No. cabins granted under planning permission reference H05-0699-16 and 12 No. cabins granted permission under H05-0114-15. Approved July 2018.
- 5.9 H05-0699-16 - Construct 6 log cabins for holiday/leisure use. Approved September 2016.
- 5.10 H05-0114-15 - Construction of 12 log cabins for holiday/leisure use. Approved September 2015.

6.0 REPRESENTATIONS

6.1 Fleet Parish Council

Until the planning application for the increased number of lodges passes through the planning system - that it is approved and the Larkfleet Group gain approval from South Holland Drainage Board then, FPC cannot agree to this planning application however well intentioned.

Following Re-consultation

The screening will hide to a degree the supporting structure of the wind fence (on one side only) but it does not resolve our original objection which still stands. In reality the overall height and length of the structure plus unknown issues with noise and maintenance concerns still makes this a questionable application

6.2 South Holland Internal Drainage Board

Officers have noted works which may require Land Drainage Consent from the Board.

6.3 LCC Highways/SUDS

No objection. The erection of the proposed wind fence would have no impact upon the operation of the local highway network or upon the safety of those using it and therefore the highway authority does not wish to object to the grant of Consent for this Application.

6.4 SHDC Environmental Protection (noise and odour)

No objection.

6.5 Public (2 no. objection, summarised)

- Site location plan is incorrect in terms of property names.
- No indication what red border means on site location plan.
- Query what Phase 1 means.
- Pedestrian and vehicle access points cannot be correct.
- Looks like proposal is going to be joined to battery storage on adjacent site so footpath will be required to get to the panels.
- H05-0565-22 - nowhere does it state joining the battery storage to this field.
- The battery storage is right on the corner edge of boundaries with neighbouring land meaning workers will be moving along the fence line - privacy rights/laws will be broken.
- Incorrect answer given to trees section of application form.
- Application form states hours of opening not relevant - to whom? It is relevant to the adjacent dwelling.
- How is no machinery work being carried out? Application form again incorrect in this regard.
- Letter from planning consultant it seems to imply planning officer supports it which must mean advice has been given somewhere.
- Concern re surface water drainage and capacity of adjoining watercourses.
- The Taxus Baccata will take 10 years before the height reaches the top of the steel gantries
- This will leave the whole gantry structure area visually exposed
- The Carpinus Betulus will also take 10-20 years before adequate screening coverage is attained

7.0 CONSIDERATIONS

7.1 Planning Considerations

7.2 Principle

7.3 The site is located outside a defined settlement limit within the South East Lincolnshire Local Plan (2019) (SELLP). For the purposes of the SELLP, the site therefore lies within the countryside. Policy 1 of the SELLP states that in the Countryside, development will be permitted that is necessary to such a location and/or where it can be demonstrated that it meets the sustainable development needs of the area in terms of economic, community or environmental benefits. Given that the proposal is to be associated with the adjoining holiday lodge site, to locate it elsewhere would be impractical. Furthermore, the applicant has advised that they are in principle content for the wind fence proposal to be linked to the development on the adjacent land.

7.4 Policy 31 of the Local Plan directly relates to 'Climate Change and Renewable and Low Carbon Energy'. Part B of that policy sets out the circumstances in which renewable energy facilities, associated infrastructure and the integration of decentralised technologies will be permitted:

7.5 *"With the exception of Wind Energy the development of renewable energy facilities, associated infrastructure and the integration of decentralised technologies on existing or proposed structures will be permitted provided, individually, or cumulatively, there would be no significant harm to:*

- 1. visual amenity, landscape character or quality, or skyline considerations;*
- 2. residential amenity in respect of: noise, fumes, odour, vibration, shadow flicker, sunlight reflection, broadcast interference, traffic;*
- 3. highway safety (including public rights of way);*
- 4. agricultural land take;*
- 5. aviation and radar safety;*
- 6. heritage assets including their setting; and*
- 7. the natural environment.*

Provision should be made for post-construction monitoring and the removal of the facility and reinstatement of the site if the development ceases to be operational."

7.6 Whilst this policy precludes "wind energy", the policy was written in the context of a national agenda against traditional wind turbines. This application is not for wind turbines, rather for a wind fence, which is clearly very different in nature and not the type of development it is considered that Policy 31 is seeking to restrict.

7.7 For the reasons set out in the remainder of this report, the proposal is considered to satisfactorily accord with various criteria of that policy.

7.8 The need for a development of this nature should not be questioned when considering an application, as per Paragraph 158 of the National Planning Policy Framework (2021). This states that:

7.9 *"When determining planning applications for renewable and low carbon development, local planning authorities should:*
a) not require applicants to demonstrate the overall need for renewable or low carbon energy, and recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions; and
b) approve the application if its impacts are (or can be made) acceptable. Once suitable areas for renewable and low carbon energy have been identified in plans, local planning authorities should expect subsequent applications for commercial scale projects outside these areas to demonstrate that the proposed location meets the criteria used in identifying suitable areas."

7.10 In conclusion, taking all of the above into account, the proposed development is deemed to be acceptable (on balance) in principle.

7.11 Landscape character / visual impact

7.12 The proposed wind fence would measure 53m in total length, with a maximum height of 6.5m.

The panels that make up the fence are constructed of a lightweight aluminium frame and are approximately 2m in height, set 4.6m above ground level. Each panel contains 6 x blades that are turned by the wind.

- 7.13 The panels would be visible from Winslow Gate to the west/south-west/north-west and Roman Bank to the north. From the north and south-westerly direction they would be viewed against the backdrop of well established trees / vegetation. Officers did have concerns that the length and height of the wind fence, coupled with it being sited on an open boundary between fields would render it overly obtrusive however, during the course of the application, the plans have been amended to introduce planting around and up from the base of the fence, which would go some way toward the fence being better absorbed into the landscape when considering the backdrop of trees north and south. The wind fence would not be visible from the public realm to the east.
- 7.14 To reiterate Paragraph 158 of the NPPF, when determining planning applications for renewable and low carbon development, local planning authorities should approve the application if its impacts are (or can be made) acceptable.
- 7.15 It is very much an on balance judgment but, overall, it is the opinion of officers that the proposed planting would minimise the visual impact of the proposed wind fence on the landscape to such an extent that it would be acceptable. It is therefore concluded that the proposed development satisfactorily complies with Policies 2 and 3 of the Local Plan in landscape / visual terms. Policy 2 of the Local Plan requires development proposals to take into account sustainable development considerations such as: quality of design; and size, scale, layout, density, impact on character and appearance of the area and the relationship to existing development. Policy 3 requires development proposals to respect the landscape character of the location.
- 7.16 Highway safety
- 7.17 The proposal is for the site to be accessed from the western side on Winslow Gate. The Highway Authority have been consulted on the application in the usual way and have raised no objection commenting that *"The erection of the proposed wind fence would have no impact upon the operation of the local highway network or upon the safety of those using it and therefore the highway authority does not wish to object to the grant of consent for this application."*
- 7.18 Consequently, the proposal is considered to satisfactorily accord with Policies 2 and 31 of the SELLP. Policy 2 requires access arrangements and vehicle generation levels to be acceptable and Policy 31 requires renewable energy proposals to not cause significant harm to highway safety.
- 7.19 Residential amenity
- 7.20 Policy 31 of the Local Plan requires renewable energy proposals to not cause significant harm to residential amenity in respect of: noise, fumes, odour, vibration, shadow flicker, sunlight reflection, broadcast interference, traffic.
- 7.21 The closest residential properties to the site front Lowgate to the east and a caravan and camping site is located to the south, the latter being screened by a substantial number of mature trees. Separation distances are in excess of 100m. At such a distance, and bearing in mind the intervening screening where relevant, it is not considered that there will be a material adverse amenity impact in respect of any of the above, nor will it adversely impact outlook. SHDC's Environmental Protection Officer has no objection.
- 7.22 Whilst there is likely to be some element of noise generation from the battery storage unit the wind fence would connect into, this unit was the subject of a separate planning application for the adjoining holiday lodge site and therefore the principle of it in that location has already been established.
- 7.23 As such, the proposal is considered to satisfactorily accord with Policies 2, 3 and 31 of the

SELLP in regard to residential amenity considerations.

7.24 Impact on historic environment

7.25 The closest Listed Building to the application site is the Grade II Listed Hovenden House, that is approx. 400m away. The lodge site is effectively located in between and there is substantial tree screening along Roman Bank that restricts views of the building and its curtilage. On that basis it is not considered that there would be a material impact on that building.

7.26 The site is not within an area of known archaeological constraints.

7.27 The proposal is therefore considered to be in accordance with Policies 2, 29 and 31 of the SELLP. Policy 2 requires the impact on historical buildings and heritage assets to be taken into account and Policy 29 seeks to protect historic legacy. Policy 31 requires renewable energy proposals to not cause significant harm to heritage assets including their setting.

7.28 Impact on natural environment

7.29 The site is not in close proximity to any designated sites of nature conservation importance and there are no features on or in very close proximity to the site that would appear to be of ecological value.

7.30 As such, the proposal satisfactorily accords with Policy 31 of the SELLP in terms of renewable energy proposals not causing significant harm to the natural environment.

7.31 Flood risk and drainage

7.32 The site is located within Environment Agency Flood Zones 2 and 3. Annex 3 to the NPPF identifies wind turbines (the closest development type to the proposal) as 'essential infrastructure' and, for such development, the NPPG indicates that the Exception Test should be applied where it is to be located in Flood Zone 3. The wind panels would be raised 4.6m above ground level and cabling will be buried underground. It would therefore be safe in a flood event and would not increase flood risk elsewhere as the frame connected to the ground covers a minimal area. The sustainability benefits of providing renewable energy would outweigh flood risk, which is limited in terms of this infrastructure in any event.

7.33 Given the limited ground cover of the proposal, it will not have an adverse impact in terms of surface water drainage.

7.34 Taking the above into account, it is considered that the proposal is in accordance with Policies 2, 3 and 4 of the Local Plan which require proposals to have an appropriate means of drainage and be acceptable in flood risk terms. It is also in accordance with National Planning Practice Guidance on Flood Risk.

7.35 Other

7.36 The remainder of the resident comments not already addressed above are included below for completeness.

7.37 Site location plan is incorrect in terms of property names - This appears to be an issue with the Ordnance Survey base map and not the fault of the applicant.

7.38 No indication what red border means on site location plan - The red line boundary demarcates the application site.

7.39 Query what Phase 1 means - The agent has advised that "The initial wind fence has been supported by a sustainable research grant, and if the results are positive and the amount of generation that was predicted through testing is achieved, we would look at a further phase.

The wind fence is proposed in combination with other renewable energy across the site, including solar, and it is this combination that will help achieve a more sustainable and self-sufficient development."

- 7.40 Pedestrian and vehicle access points cannot be correct - Vehicle access is to be from Winslow Gate. Other than the construction period, there is not understood to be a need for regular pedestrian movements to / from the wind fence.
- 7.41 Looks like proposal is going to be joined to battery storage on adjacent site so footpath will be required to get to the panels - As above.
- 7.42 H05-0565-22: nowhere does it state joining the battery storage to this field - There is not a specific requirement for the applicant to do so given that this proposal is subject to a separate application and the solar panels were the only renewable element requiring battery storage that formed part of H05-0565-22.
- 7.43 The battery storage is right on the corner edge of boundaries with neighbouring land meaning workers will be moving along the fence line (privacy rights/laws will be broken) - The battery storage unit is already approved by virtue of H05-0565-22 and does not form part of this application, therefore its merits cannot be debated again.
- 7.44 Incorrect answer given to trees section of application form - This is agreed but does not materially impact the decision making process given a site visit has been conducted.
- 7.45 Application form states hours of opening not relevant (to whom?) - The proposal is not a typical building / business where there are clearly defined opening hours. It's hours of use will be dependent upon wind levels at any given time.
- 7.46 How is no machinery work being carried out? Application form again incorrect in this regard - Machinery will clearly be used in the construction of the wind fence, however the actual operation phase does not involve the carrying out of industrial or commercial activities and processes, which is the question on the application form.
- 7.47 Letter from planning consultant it seems to imply planning officer supports it which must mean advice has been given somewhere - The Council offers a pre-application advice service for prospective applicants but no advice has been provided in terms of this proposal other than the type of application to submit.
- 7.48 Planning Balance
- 7.49 Policy 31 of the Local Plan directly relates to 'Climate Change and Renewable and Low Carbon Energy'. Part B of that policy sets out the circumstances in which renewable energy facilities, associated infrastructure and the integration of decentralised technologies will be permitted. Whilst this policy precludes "wind energy", the policy was written in the context of a national agenda against traditional wind turbines. This application is not for wind turbines, rather for a wind fence, which is clearly very different in nature and not the type of development it is considered that Policy 31 is seeking to restrict.
- 7.50 Paragraph 158 of the National Planning Policy Framework (2021) states that:
- "When determining planning applications for renewable and low carbon development, local planning authorities should:*
- a) not require applicants to demonstrate the overall need for renewable or low carbon energy, and recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions; and*
- b) approve the application if its impacts are (or can be made) acceptable. Once suitable areas for renewable and low carbon energy have been identified in plans, local planning authorities should expect subsequent applications for commercial scale projects outside these areas to demonstrate that the proposed location meets the criteria used in identifying suitable areas."*

7.51 In terms of the latter, it is considered that, on balance, the proposed development would be acceptable in visual terms with the proposed planting going some way toward the fence being better absorbed into the landscape when considering the backdrop of trees north and south. There are no objections from the Highway Authority or Environmental Protection and the development is acceptable on flood risk and drainage grounds. Given the separation distance to residential dwellings, it is not considered there would be a material adverse amenity impact such to justify refusing the application. There are no significant concerns in respect of the historic or natural environment.

7.52 Taking the above into account, the planning balance appears to lie in favour of the proposal.

7.53 Conclusion

7.54 On balance and taking all material considerations into account as outlined above, it is not considered that there are any adverse impacts that would significantly and demonstrably outweigh the benefits of the scheme in terms of its production of renewable energy. The proposal satisfactorily accords with Policies 1, 2, 3, 4, 28, 29 and 30 of the Local Plan and Sections 12, 14, 15 and 16 of the NPPF.

7.55 **Additional Considerations**

7.56 Public Sector Equality Duty

In making this decision the Authority must have regard to the public sector equality duty (PSED) under s.149 of the Equalities Act. This means that the Council must have due regard to the need (in discharging its functions) to:

A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.

B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s).

C. Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in s.149. It is only one factor that needs to be considered, and may be balanced against other relevant factors.

It is not considered that the recommendation in this case will have a disproportionately adverse impact on a protected characteristic.

7.57 Human Rights

In making a decision, the Authority should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as South Holland District Council to act in a manner that is incompatible with the European Convention on Human Rights. The Authority is referred specifically to Article 8 (right to respect for private and family life) and Article 1 of the First Protocol (protection of property).

It is not considered that the recommendation in this case interferes with local residents' right to respect for their private and family life, home and correspondence, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general public interest and the recommendation is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

8.0 **RECOMMENDATIONS**

8.1 **Grant Permission subject to the Conditions listed at Section 9.0 of this report**

9.0 CONDITIONS

1. The development must be begun not later than the expiration of three years beginning with the date of this permission.

Reason: As required by Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the following approved plans and/or documents:
L---/PROP/02/LPLAN
L---/PROP/02/PLAN Rev A
05-1071-302 rev P03

Reason: For the avoidance of doubt and in the interests of proper planning.

3. Prior to its installation, details of the fencing to be erected around the wind panels shall be submitted to and approved in writing by the Local Planning Authority, and the details so approved shall be implemented in full before the development is first brought into use and retained thereafter.

Reason: In the interests of the character and appearance of the development and the amenity of the area in which it is set.

This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019.

4. The planting shown on dwg. no. 05-1071-302 rev P03 shall be undertaken and completed before the development is first brought into use and retained thereafter.

Reason: In order to ensure that the site is adequately screened, in the interests of the character and appearance of the development and the amenity of the area in which it is set.

This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019.

5. The Local Planning Authority has acted positively and proactively in determining this application by assessing it against all material considerations, including national guidance, planning policies and representations that have been received during the public consultation exercise, and by identifying matters of concern within the application and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal.

This decision notice, the relevant accompanying report and the determined plans can be viewed online at <http://planning.sholland.gov.uk/OcellaWeb/planningSearch>

Background papers:- Planning Application Working File

Lead Contact Officer

Name and Post:	Richard Fidler , Development Manager
Telephone Number:	01775 764428
Email	rfdler@sholland.gov.uk

Appendices attached to this report:

Appendix A Plan A

MapThat Scale Print Title

